



Additional Terms And Conditions (Collectively the “Terms”) For The Purchase Of Goods And Services

EnerSys Canada Inc.

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The term "Buyer" shall mean EnerSys Canada Inc., and the term "Supplier" shall refer to the party from whom Buyer is purchasing goods or services under the applicable purchase order (a "PO").

1. Property. All jigs, dies, molds, equipment or other items owned by Buyer and used by Supplier hereunder, shall remain Buyer's property, shall be safe, shall not be removed from Supplier's facility without Buyer's written consent and shall not be used to manufacture products for anyone else. All deliverables created for Buyer hereunder shall be owned by Buyer and considered work made for hire for Buyer. If any deliverable is not considered a work made for hire, Supplier shall assign, or obtain an assignment to, as applicable, the rights, title and interest in and to such deliverables to Buyer.

2. Cancellation. Buyer may cancel or terminate any PO, or any portion thereof, at any time, for any reason, including the convenience of Buyer without being liable for any termination fee or other charge. Enumeration of certain rights does not exclude others given by law. If Buyer cancels or terminates any PO, Buyer shall pay to Supplier an amount equal to the actual direct costs incurred by Supplier in performing under such PO up to the date of cancellation or termination less any amounts previously paid by Buyer; provided, however, Buyer shall not be obligated to pay Supplier any costs incurred by Supplier to the extent Supplier can use or incorporate the goods or services for or into other purchase orders of Buyer, or for the benefit, of any other customer of Supplier.

3. Changes. Buyer may change the specifications, materials, or description of the goods or services, or any aspect thereof prior to receiving such goods from, or the completion of services to be performed by, Supplier. If such change changes the cost or time required for performance, Supplier shall promptly notify Buyer of such change and Buyer shall have fifteen (15) days to withdraw its request for change. If Buyer does not respond to Supplier's notice, the request for changes shall be deemed withdrawn and Supplier shall perform such PO under its original terms.

4. Timing. Time is of the essence in the performance of any PO. If services are not completed or goods are not delivered by the delivery date set forth in the applicable PO, Buyer may terminate such PO by written notice effective upon receipt by Supplier and obtain substitute services or goods. Supplier shall promptly reimburse Buyer for any loss or increased costs, including downtime or overtime costs, incurred by Buyer as a result of obtaining such substitute goods or services.

5. Taxes. Supplier is solely responsible for the payment of any sales, use or other tax or duty levied or based on the price of any goods or services provided pursuant to any PO. Notwithstanding the foregoing, any Goods and Services tax ("GST") shall be initially payable by Buyer to Supplier, provided Supplier is a GST registrant. If Buyer pays any such tax or duty, including without limitation GST, Supplier shall promptly reimburse Buyer therefore. If any excise tax is paid by Buyer and later refunded to Supplier, then Supplier shall immediately pay to Buyer the amount of such refund.

6. Price; Warranty. If no price is stated in a PO, Supplier shall charge the lowest prices previously quoted or charged Buyer for like goods or services. Supplier warrants that the prices stated in any PO are the lowest prices charged by Supplier to any customer for like goods or services in like quantities under similar conditions. If a lower price is quoted within thirty (30) days after delivery to Buyer, Supplier shall promptly pay Buyer a rebate equal to the difference within ten (10) days thereafter.

7. Invoice Disputes. Buyer may dispute invoiced amounts and withhold the disputed amount while the parties try to resolve the dispute. Pending such dispute resolution, the parties shall continue to meet their other obligations under the applicable PO and any other POs from Buyer. Payment of any fees by Buyer shall not waive any rights, claims or remedies.

8. Limitation of Liability. NOTWITHSTANDING ANYTHING TO THE CONTRARY, IN NO EVENT SHALL BUYER'S CUMULATIVE LIABILITY TO SUPPLIER FOR ALL CLAIMS, LIABILITIES, LOSSES, DAMAGES, COSTS AND EXPENSES RELATING TO OR ARISING OUT OF A PO, OR THE GOODS OR SERVICES PROVIDED THEREUNDER, EXCEED THE AMOUNT OF THE PURCHASE PRICE FOR ANY SUCH GOODS OR SERVICES IN CONNECTION WITH THE APPLICABLE PO, LESS ANY AMOUNTS ALREADY PAID BY BUYER FOR SUCH GOODS OR SERVICES. BUYER SHALL NOT BE LIABLE

TO SUPPLIER FOR ANY LOST PROFIT, LOSS OF BUSINESS, LOSS OF GOODWILL, INDIRECT, INCIDENTAL, OR CONSEQUENTIAL DAMAGES.

9. Indemnification. Supplier shall indemnify, defend and hold harmless Buyer, its affiliates, officers, directors, attorneys, employees, and agents, from and against all losses, obligations, liabilities claims, judgments, damages (of all types), penalties, fines, costs and expenses (including reasonable attorney's fees) arising out of, or in connection with (a) the violation or alleged violation of any law, regulation or rights of third parties by reason of performance or nonperformance of any PO; (b) breach of any term, covenant, representation or warranty by Supplier; (c) any infringement or alleged infringement of a patent, copyright, trademark, or other intellectual property relating to the goods or services furnished by Supplier; (d) injury or death to persons or any property damage relating to the goods or services provided by Supplier, or acts or omissions of Supplier or its directors, employees, agents, contractors or subcontractors; or (e) injuries to or death of Supplier's employees, including allegations of Buyer's negligence. Clause (e) is applicable to claims for which Supplier has or may have immunity under any applicable provincial workers' compensation, workplace safety or workers' insurance laws or regulations (collectively the "Provincial Laws") and Seller agrees and acknowledges that by undertaking to indemnify Buyer, Supplier is expressly undertaking indemnification liability by written contract pursuant to any Provincial Laws, which require such an undertaking. Supplier's obligations under this section shall not be limited to its insurance coverage.

10. Insurance. Supplier agrees to maintain commercially reasonable levels of insurance coverage, including: (1) Commercial General Liability and Errors and Omissions Insurance with a limit of not less than one million U.S. dollars (\$1,000,000) covering liability for property damage and bodily injury, including death to any person; (2) Automobile liability insurance with bodily injury and property damage limits of not less than one million U.S. dollars (\$1,000,000); and (3) "Umbrella" liability insurance in an amount not less than five million U.S. dollars (\$5,000,000). If Supplier is performing services, Supplier agrees to also maintain: (1) Commercial Crime insurance covering employee dishonesty in an amount of not less than one million U.S. dollars (\$1,000,000); (2) Workers' compensation insurance at the applicable statutory limit and in an amount of not less than five-hundred thousand U.S. dollars (\$500,000) per occurrence; and (3) Property insurance covering "All Risk" of loss or damage to Supplier's real and personal property. Buyer shall be named as an additional insured on the Commercial General Liability, Automobile Liability and Umbrella Liability policies, and Supplier shall provide Buyer with Certificates of Insurance. If applicable, all policies shall be underwritten through insurance companies licensed to do business in the jurisdiction where the services are being provided, and with an A.M. Best rating of A- (X) or higher.

11. Confidentiality. Buyer, or third parties on Buyer's behalf, may disclose to Supplier confidential or proprietary information ("Buyer Information"). For a period of five (5) years after termination or expiration of this PO, Supplier shall not disclose and shall, to the extent within its control, prevent the disclosure by others of Buyer Information to any third party without the prior written consent of Buyer. Supplier agrees not to use, or make copies of, Buyer Information except as required for the performance of its obligations under this PO, and agrees to limit access to Buyer Information to its own employees, agents and consultants strictly on a "need to know" basis; provided, however, that such agents and consultants execute an agreement with Supplier with confidentiality provisions at least as restrictive as those contained herein. Upon expiration or termination of this PO or if requested by Buyer, Supplier shall, to the extent possible, promptly return all Buyer Information. Supplier acknowledges that disclosing Buyer Information may give rise to irreparable injury which may be inadequately compensable in damages. If Supplier breaches, or Buyer could reasonably believe Supplier may breach, this confidentiality provision, Supplier consents to Buyer obtaining injunctive relief to prevent, or otherwise limit the damages of, any such breach or threatened breach.

12. Subcontractors. Supplier may subcontract any portion of a PO to another person (collectively the "Subcontractors"), but Supplier shall nevertheless remain primarily liable and fully responsible for the performance of the obligations under such PO. If Supplier is subcontracting a service, Supplier must first obtain Buyer's written consent to use Subcontractors prior to subcontracting, or otherwise permitting Subcontractors to perform, services. No subcontract shall increase the fees or expenses paid by Buyer, or the scope of the applicable PO. Supplier shall cause its Subcontractors to, and remains fully responsible if they do not, comply with these Terms.

13. Mechanics Liens. If any PO calls for services to be performed upon Buyer's property, Supplier shall not file or cause to be filed, directly or indirectly, and shall keep such property free of, any subcontractors', labourers', materialmen's, storers' or similar liens (the "Liens"), and shall perform acts and provide assurances, including obtaining payment and performance bonds and furnishing lien waivers, as Buyer may request or that is otherwise required to prevent or waive such Liens. Supplier shall give any Subcontractors notice of this provision and, prior to subcontracting any services, shall require its Subcontractors to agree to waive any rights to Liens it may have with respect to Buyer, and to cooperate fully with Buyer to fill out forms, file documents, or perform any such acts or assist in waiving or preventing Liens prior to allowing any Subcontractor, or representative of Subcontractor, to furnish any labour or materials to Supplier for the performance of any PO or portion thereof.

14. Compliance with Law.

(a) General Compliance. Supplier shall (i) comply with all applicable laws, regulations, standards and other governmental requirements or those of any relevant trade groups or associations, such as UL, the Canadian Standards Association, or CGA (collectively the "Laws"), in connection with the performance of its obligations under any PO, and (ii) furnish to Buyer any information required to enable Buyer to comply with such Laws.

(b) NAFTA. Supplier agrees to comply with the requirements of the North American Free Trade Agreement (“NAFTA”), including without limitation the following requirements:

(1) Goods shipped from the US shall be accompanied by a NAFTA Certificate of Origin or a letter stating that such goods do not qualify under NAFTA with a list of related products.

(2) Where possible a blanket NAFTA Certificate of Origin shall be obtained, with an expiry date of December 31 of the year in which the goods are to be shipped.

(3) NAFTA Certificates of Origin shall be renewed by December 15 of the year prior to the year to which they relate and shall be faxed to Buyer no later than such date each year.

(4) Additional costs or duties incurred by Buyer as a result of a NAFTA Certificate of Origin being invalid or not delivered in a timely manner shall be charged by Buyer to Supplier.

(c) Customs. Supplier agrees to comply with the requirements of Canada Customs.

(d) Toxic Substances. Upon receipt by Buyer of information which would reasonably lead to the conclusion that a chemical or any other toxic substance is being used by Supplier in connection with the performance of its obligation hereunder in violation of the Canadian Environment Protection Act, 1999 or any other environmental laws, Buyer may suspend or terminate such PO.

15. Conflict Minerals. Suppliers are expected to ensure that parts and products supplied to Buyer do not contain “Conflict Minerals” (gold, tin, tantalum and tungsten) or their derivatives that are sourced from Eastern provinces of the Democratic Republic of Congo (“DRC”) or adjoining countries. Suppliers are expected to establish policies and perform due diligence consistent with the *OECD Due Diligence Guidance for Responsible Supply Chains of Minerals from Conflict-Affected and High-Risk Areas*.

16. Non-Discrimination. Supplier warrants that it shall not, in performing its obligations under any PO, discriminate against any employee or applicant for employment on the basis of race, creed, color, age, sex, or national origin or on the basis of the employee or applicant being a disabled veteran status, in regard to a position for which the employee or applicant is qualified.

17. Assignment. Supplier shall not assign any of its rights or obligations under any PO without the prior written consent of Buyer. Any merger, consolidation, reorganization, recapitalization, sale of a substantial portion of Supplier's business or assets or any other transaction by which there is a change in control of Supplier's, or any of Supplier's owners' or parents', business shall be deemed an assignment by Supplier.

18. Jurisdiction; Venue. Any suit, action or other proceeding seeking to enforce, or in any way relating to, any provision of a PO shall be brought only in the courts of Ontario, Canada. Supplier irrevocably consents and submits to the jurisdiction and venue of such courts and irrevocably waives any objection which it may have to the laying of the venue of any suit, action or proceeding brought in such courts and any claim that such suit, action or proceeding brought in such courts has been brought in an inconvenient forum or that such courts lack jurisdiction.

19. Severability. If any provision of any PO, or any portion thereof, is held invalid or unenforceable by any court of competent jurisdiction, the other remaining provisions will remain in full force and effect. Any provision of any PO held invalid or unenforceable only in part will remain in full force and effect to the extent not held invalid or unenforceable.

20. Waiver. Failure or delay of Buyer in exercising any right, power or privilege under these Terms or any PO (the “Rights”), will not waive of any such Rights, and no partial exercise of any such Rights will preclude further exercise of such Rights, or the exercise of any other right, power or privilege.

21. Governing Law. All POs and transactions contemplated thereby shall be governed by the domestic internal laws of the Province of Ontario and the laws of Canada applicable therein without regard to its principles pertaining to the conflict of laws. The United Nations Convention on Contracts for the International Sale of Goods shall not apply to these Terms or the applicable PO.

22. Language. These Terms and all communications and documents relating hereto shall be interpreted in the English language. Les parties ont exigé que les présentes ainsi que tout document s'y rattachant soient rédigés dans la langue anglaise. If Buyer provides Supplier these Terms or any other document in another language, and a conflict between the English version and the other version arises, the English version shall govern.

23. Delivery; Marking. Unless otherwise agreed in writing, Goods shall be delivered F.O.B. Buyer's address as set forth in the applicable PO. All packaging and labels must include Buyer's PO Number, Buyer's Part Number and Revision Designator, Quantity, Lot Number and Date of Shipment. Buyer may reject and return to Supplier at Supplier's sole cost and expense, any shipment which does not include the foregoing information.

24. Acceptance of Goods. Buyer's payment of the purchase price, or any part thereof, does not constitute acceptance of the goods or services. Goods and services are subject to inspection and rejection by Buyer within a reasonable time following receipt

by Buyer. Risk of loss does not pass to Buyer until acceptance of the goods or services. To the extent practicable, defective or nonconforming goods will be returned to Supplier at Supplier's sole cost and expense, and the risk of loss with respect to such defective or nonconforming goods shall never pass to Buyer and shall remain with Supplier.

25. Warranties. Supplier warrants that all goods and services furnished hereunder shall, as appropriate: (a) be new and free from defects; (b) conform to all designs, plans, specifications, responses to RFPs, marketing brochures, oral and written claims made by Supplier, samples and statements on containers, labels and advertisements; (c) be performed in a good, professional and workmanlike manner; (d) be merchantable, safe, fit and appropriate for Buyer's particular purpose and use; and (e) be delivered free and clear of any claims, liens or encumbrances whatsoever.